

## CHAPTER 12. STATE TREASURER REVISED STATUTES OF 1846

### CHAPTER 12

#### Chapter 12. Of Certain State Officers.

##### The State Treasurer.

#### **12.7 Blanket bond.**

Sec. 7. The state treasurer before entering upon the duties of his or her office shall be covered by a blanket bond as provided in Act No. 10 of the Public Acts of 1969, being sections 15.1 to 15.6 of the Michigan Compiled Laws.

**History:** R.S. 1846, Ch. 12;—CL 1857, 154;—Am. 1861, Act 36, Eff. June 15, 1861;—CL 1871, 221;—How. 265;—CL 1897, 77;—Am. 1909, Act 15, Eff. Sept. 1, 1909;—CL 1915, 103;—CL 1929, 142;—CL 1948, 12.7;—Am. 1980, Act 107, Imd. Eff. May 7, 1980.

#### **12.8 Repealed. 1980, Act 107, Imd. Eff. May 7, 1980.**

**Compiler's note:** The repealed section pertained to conditions of official bond.

#### **12.9 Chief deputy; appointment; duties and responsibilities; vacancy in office of state treasurer; appointment of acting or successor state treasurer.**

Sec. 9. (1) The state treasurer shall appoint a chief deputy, for whose acts the state treasurer shall be responsible, and may revoke the appointment at pleasure. The state treasurer shall assign duties and responsibilities to the chief deputy. The chief deputy may execute the duties of the office of state treasurer during the sickness, disability, or absence of the state treasurer, or if a vacancy occurs in the office of the state treasurer.

(2) If a vacancy occurs in the office of the state treasurer due to death, resignation, retirement, or any other cause, the chief deputy shall execute the duties of the office of state treasurer until a successor state treasurer or an acting state treasurer is appointed. The governor may appoint an acting state treasurer for a period of not more than 60 days. The governor shall appoint a successor state treasurer not later than 90 days after the date the vacancy occurs in the office of state treasurer.

**History:** R.S. 1846, Ch. 12;—CL 1857, 156;—CL 1871, 223;—How. 367;—CL 1897, 79;—Am. 1913, Act 65, Eff. Aug. 14, 1913;—CL 1915, 105;—CL 1929, 144;—CL 1948, 12.9;—Am. 1980, Act 107, Imd. Eff. May 7, 1980.

#### **12.10 Vacancy in office of state treasurer; audit.**

Sec. 10. Upon the death or resignation of the state treasurer, or upon a vacancy in the office of state treasurer from any other cause, the auditor general shall perform an audit of cash and securities in the possession or under the control of the state treasurer.

**History:** R.S. 1846, Ch. 12;—CL 1857, 157;—CL 1871, 224;—How. 268;—CL 1897, 80;—CL 1915, 106;—CL 1929, 145;—CL 1948, 12.10;—Am. 1980, Act 107, Imd. Eff. May 7, 1980.

#### **12.11, 12.12 Repealed. 1980, Act 107, Imd. Eff. May 7, 1980.**

**Compiler's note:** The repealed sections pertained to vacancy in office of state treasurer.

#### **12.13 Exhibit of accounts to auditor general.**

Sec. 13. When required by the auditor general, the state treasurer shall exhibit to the auditor general for examination the cash and cash items in the treasury and a true statement of all state treasurer cash balances.

**History:** R.S. 1846, Ch. 12;—CL 1857, 160;—Am. 1861, Act 36, Eff. June 15, 1861;—CL 1871, 227;—How. 271;—CL 1897, 83;—CL 1915, 109;—CL 1929, 148;—CL 1948, 12.13;—Am. 1968, Act 178, Eff. Nov. 15, 1968;—Am. 1992, Act 55, Imd. Eff. May 20, 1992.

#### **12.14 Financial statement to legislature, publication.**

Sec. 14. The treasurer shall make to the legislature, at its annual session in January in each year, and at such other times as he shall be required by either branch of the legislature, an exact statement of the balance in the treasury to the credit of the state, with a summary of the receipts and payments of the treasury during the preceding year; which annual statement he shall cause to be published with the laws of the session at which the same shall have been made.

**History:** R.S. 1846, Ch. 12;—CL 1857, 161;—CL 1871, 228;—How. 272;—CL 1897, 84;—CL 1915, 110;—CL 1929, 149;—CL 1948, 12.14.

**12.15 Repealed. 1948, 2nd Ex. Sess., Act 1, Eff. Jan. 1, 1949.**

**Compiler's note:** The repealed section pertained to office location and salary of state treasurer.

**OFFICE PERSONNEL**  
**Act 79 of 1917**

AN ACT to provide for the appointment of a cashier, bookkeeper, assistant bookkeeper, chief clerk and a securities clerk in the office of the state treasurer, and to fix the salaries thereof.

**History:** 1917, Act 79, Imd. Eff. Apr. 17, 1917.

*The People of the State of Michigan enact:*

**12.21 State treasurer office employees.**

Sec. 1. The state treasurer shall have power to appoint a cashier, a bookkeeper, an assistant bookkeeper, a chief clerk and a securities clerk, who shall each perform such respective duties as the state treasurer may direct and require and who shall receive such salaries as shall be fixed by the state legislature. Said salaries shall be paid out of the general fund in the state treasury in the same manner as are the salaries of other employees of the state.

**History:** 1917, Act 79, Imd. Eff. Apr. 17, 1917;—CL 1929, 151;—Am. 1933, Act 18, Imd. Eff. Feb. 28, 1933;—CL 1948, 12.21.

**STATE FAIR BONDS**  
**Act 275 of 1927**

**12.31-12.35 Repealed. 2000, Act 106, Imd. Eff. May 19, 2000.**

## **WARRANT FUNCTIONS**

### **Act 43 of 1959**

AN ACT to transfer the warrant functions of the auditor general to the state treasurer; to provide for the transfer of staff, records, files and other property; to provide that hearings shall not be abated; to transfer appropriations and other funds; to prescribe the powers and duties of the auditor general and the state treasurer; and to fix the effective date of this act.

**History:** 1959, Act 43, Eff. Mar. 19, 1960.

*The People of the State of Michigan enact:*

#### **12.41 Auditor general's powers and duties as to warrants, garnishments; transfer to state treasurer.**

Sec. 1. All powers and duties now vested by law in the auditor general with respect to the drawing and issuing of warrants are hereby transferred to and vested in the state treasurer. The state treasurer shall be vested with full authority to draw, issue or cause to issue warrants with reference to all matters as have heretofore been vested in the auditor general. The state treasurer is hereby vested with all the powers, duties, functions, responsibilities and jurisdiction now or hereafter conferred on the auditor general with respect to actions in garnishment. Whenever any reference is made in the laws of this state to the auditor general with respect to warrants, and with respect to actions in garnishment, such reference shall be deemed intended to be made to the state treasurer. The powers and duties of the auditor general with respect to drawing and issuing of warrants and with respect to actions in garnishment shall be terminated upon the effective date of this act.

**History:** 1959, Act 43, Eff. Mar. 19, 1960.

#### **12.42 Transfer of staff, records, files, property, and trusts.**

Sec. 2. All of the staff, records, files and other property, including property held in trust, belonging to the auditor general with respect to drawing and issuing of warrants and with respect to actions in garnishment shall be transferred to the state treasurer and shall be continued as part of the staff, records, files and property of the office of the state treasurer.

**History:** 1959, Act 43, Eff. Mar. 19, 1960.

#### **12.43 Transfer of hearings, orders, rules and regulations.**

Sec. 3. All hearings and proceedings of whatever nature now pending before the auditor general with respect to drawing and issuing of warrants and with respect to actions in garnishment shall not be abated, but shall be transferred to the state treasurer, without notice to interested parties, and shall be conducted in the same manner and determined in accordance with the provisions of law concerning such hearings and proceedings. All orders, rules and regulations of the auditor general with respect to drawing and issuing of warrants and with respect to actions in garnishment shall continue in effect as though the transfer were not made and, to the extent applicable, they shall be binding upon the state treasurer.

**History:** 1959, Act 43, Eff. Mar. 19, 1960.

#### **12.44 Transfer of appropriations.**

Sec. 4. All appropriations and all other funds necessary to carry out the powers and duties of the auditor general with respect to drawing and issuing of warrants and with respect to actions in garnishment shall be transferred to the state treasurer.

**History:** 1959, Act 43, Eff. Mar. 19, 1960.

#### **12.45 Continuance of services and functions during transfer.**

Sec. 5. The auditor general and the state treasurer shall make all other arrangements as are necessary to provide for the uninterrupted conduct of the services and functions of government as prescribed by this act.

**History:** 1959, Act 43, Eff. Mar. 19, 1960.

#### **12.46 Effective date of transfer.**

Sec. 6. The provisions of this act shall take effect on January 1, 1960.

**History:** 1959, Act 43, Eff. Mar. 19, 1960.

**MANAGEMENT OF STATE FUNDS**  
**Act 55 of 1967**

AN ACT relating to the management of state funds; to prescribe the powers and duties of the state treasurer and the state administrative board; and to repeal certain acts and parts of acts.

**History:** 1967, Act 55, Imd. Eff. June 16, 1967.

*The People of the State of Michigan enact:*

**12.51 Transfer of cash on hand; approval; advance appropriations.**

Sec. 1. In order that state obligations may be paid as they become due, the state treasurer, with the approval of the state administrative board, may transfer cash on hand and on deposit among the various funds in the state treasury in such manner as to best manage the available cash on hand. Notwithstanding the provisions of any other act to the contrary, no advance appropriations shall be made to any municipality as defined in the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, without the approval of the state administrative board.

**History:** 1967, Act 55, Imd. Eff. June 16, 1967;—Am. 2002, Act 186, Imd. Eff. Apr. 24, 2002.

**12.52 Relief of state treasurer from liability.**

Sec. 2. In carrying out the duties imposed under section 1, the state treasurer shall be relieved from all legal liabilities which might attach to his actions.

**History:** 1967, Act 55, Imd. Eff. June 16, 1967.

**12.53 Repeals.**

Sec. 3. Act No. 46 of the Public Acts of 1962, being sections 12.81 to 12.83 of the Compiled Laws of 1948, is repealed.

**History:** 1967, Act 55, Imd. Eff. June 16, 1967.

## **PAYMENT OF FULL FAITH AND CREDIT OBLIGATIONS**

### **Act 259 of 1982**

AN ACT to provide for the payment of the principal of and interest on full faith and credit obligations of this state; to prescribe duties of the state treasurer with respect thereto; and to provide for the enforcement of such duties.

**History:** 1982, Act 259, Imd. Eff. Sept. 30, 1982.

*The People of the State of Michigan enact:*

#### **12.61 Purpose of act; “obligations” defined.**

Sec. 1. The purpose of this act is to provide for the payment of the principal of and interest on obligations of this state issued pursuant to section 14, 15, or 16 of article 9 of the state constitution of 1963, which are full faith and credit obligations of this state. For purposes of this act, “obligations” means any obligation issued by the state pursuant to section 14, 15, or 16 of article 9 of the state constitution of 1963, which are full faith and credit obligations of this state.

**History:** 1982, Act 259, Imd. Eff. Sept. 30, 1982.

#### **12.62 Payment of principal and interest on obligations of state; duties of state treasurer.**

Sec. 2. It shall be the duty of the state treasurer to pay or cause to be paid the principal of and interest on all obligations of this state as the same become due from any money or revenue pledged therefor or from any other state money or revenue under the control or custody of the state treasurer other than retirement funds, trust and agency funds, bond proceeds funds, debt service funds, restricted gifts and grants, or revenue restricted by the state constitution of 1963 for other purposes, notwithstanding that state money or revenue subject to use by the state treasurer for payment of principal and interest on any obligation of this state may have been otherwise restricted for other use. If the principal of or interest on any obligation of this state is not paid upon proper presentation of the evidence of such obligation to the agent or officer charged with making payment thereof, upon presentation of the evidence of such obligation to the state treasurer, the state treasurer shall have the duty to promptly pay the same from the first state money or revenue which are then or thereafter come under his or her control or custody in the same or any subsequent state fiscal year other than retirement funds, trust and agency funds, bond proceeds funds, debt service funds, restricted gifts and grants, or revenue restricted by the state constitution of 1963 for other purposes, notwithstanding that state money or revenue subject to use by the state treasurer for payment of principal and interest on any obligation of this state may have been otherwise restricted for other use and notwithstanding that state revenue or money subject to use by the state treasurer for payment of principal and interest on any obligation of this state may have been accrued as receipts for a prior state fiscal year.

**History:** 1982, Act 259, Imd. Eff. Sept. 30, 1982.

#### **12.63 Enforcing duties of state treasurer by action to require performance.**

Sec. 3. In addition to any other remedies provided by law to the holder of any obligation, the duties of the state treasurer under this act may be enforced by the holder of the evidence of any obligation by an action to require performance brought in the court of appeals.

**History:** 1982, Act 259, Imd. Eff. Sept. 30, 1982.

#### **12.64 Act as contract with holders of obligations.**

Sec. 4. This act shall be deemed a contract with the holders from time to time of obligations of this state.

**History:** 1982, Act 259, Imd. Eff. Sept. 30, 1982.

## **MANAGEMENT OF STATE FUNDS**

### **Act 35 of 1959**

**12.71-12.74 Expired. 1959, Act 35, Eff. Mar. 31, 1960.**

## **MANAGEMENT OF STATE FUNDS**

### **Act 46 of 1962**

**12.81-12.83 Repealed. 1967, Act 55, Imd. Eff. June 16, 1967.**

**SERVICE FEES ON REAL ESTATE MORTGAGES**  
**Act 3 of 1952**

AN ACT imposing service fees on real estate mortgages deposited as collateral security in the state treasury; and to provide for the disposition of revenue received therefrom.

**History:** 1952, Act 3, Eff. Sept. 18, 1952.

*The People of the State of Michigan enact:*

**12.101 Deposit of real estate mortgage as collateral security fees; credited to general fund.**

Sec. 1. Any person, firm or corporation who shall deposit in the state treasury as collateral security any real estate mortgage, whether such deposit is required by any law of this state or is made voluntarily, shall pay to the state treasurer an initial service fee of \$5.00 for each such mortgage at the time of making such deposit. In addition, each such person, firm or corporation shall on the first business day of December of each year pay to the state treasurer an annual service fee at a rate to be determined by the state treasurer to be computed on the mean average monthly principal balance of the mortgages belonging to such owner on deposit with the state treasurer during the 12 calendar months next preceding such payment sufficient to reimburse the state treasurer for not less than all actual and necessary expenses incurred in connection with such deposit. All sums paid to the state treasurer under the provisions of this act shall be credited to the general fund of the state.

**History:** 1952, Act 3, Eff. Sept. 18, 1952;—Am. 1967, Act 94, Imd. Eff. June 21, 1967.

## UNIFIED VOLUME LIMITATION ALLOCATION ACT

### Act 496 of 1988

AN ACT to provide for the allotment and allocation of the state's unified volume limitation; and to repeal certain acts and parts of acts.

**History:** 1988, Act 496, Eff. Mar. 30, 1989.

*The People of the State of Michigan enact:*

#### 12.111 Short title.

Sec. 1. This act shall be known and may be cited as the “unified volume limitation allocation act”.

**History:** 1988, Act 496, Eff. Mar. 30, 1989.

#### 12.112 Definitions.

Sec. 2. As used in this act:

(a) “Bonds” means private activity bonds subject to the unified volume limitation and any other bonds, notes, and evidences of indebtedness, including certain lease and installment purchase obligations, that would be treated by the internal revenue service as private activity bonds unless issued with an allocation from the unified volume limitation.

(b) “Issuer” means a municipal issuer or a state issuer.

(c) “Municipal issuer” means a city, village, township, county, school district, or community college district, or an agency, instrumentality, authority, or district created by 1 or more of the foregoing that is authorized by law to issue bonds. Municipal issuer does not include a state issuer.

(d) “Private activity bonds” means bonds, notes, or other evidences of indebtedness issued as private activity bonds as authorized by law and as defined in section 141 of the internal revenue code.

(e) “State issuer” means the state of Michigan, an agency, authority, or other instrumentality created by the laws of this state, the governing body of which is composed of members elected by the people or appointed in whole or in part by a state officer, or a state college or university listed or described in section 4 of article VIII of the state constitution of 1963, which entity is authorized to issue bonds. State issuer does not include a municipal issuer.

(f) “Treasurer” means the state treasurer or a deputy or employee of the department of treasury that the state treasurer authorizes to act under this act.

(g) “Unified volume limitation” means the ceiling for this state on the aggregate amount of bonds that may be issued by all issuers in the state as prescribed by section 146 of the internal revenue code for a particular year.

**History:** 1988, Act 496, Eff. Mar. 30, 1989.

#### 12.113 Unified volume limitation and allotment thereof; determination; publication.

Sec. 3. Each year, the treasurer shall determine the unified volume limitation and the allotment of the unified volume limitation for the following calendar year and shall publish that determination in 3 newspapers of general circulation in different parts of the state, 1 of which is published in the Upper Peninsula.

**History:** 1988, Act 496, Eff. Mar. 30, 1989.

#### 12.114 Allotments to state and municipal issuers for allocation; reallocation; division of allotment into installments; increase in monthly installments; reserving portion of monthly allotment; pro rata reductions in monthly installments.

Sec. 4. (1) The treasurer shall allot 40% of the unified volume limitation to the state issuers and 60% of the unified volume limitation to the municipal issuers for allocation pursuant to this act. If, during a year, 90% of the allotment to municipal issuers has been allocated, the treasurer may reallocate all or a part of the remaining portion of the unified volume limitation from the state issuers to the municipal issuers. If, during a year, 90% of the allotment to state issuers has been allocated, the treasurer may reallocate all or a part of the remaining portion of the unified volume limitation from the municipal issuers to the state issuers.

(2) The treasurer shall divide the allotment under this section to municipal issuers into 10 installments for monthly allocation pursuant to section 6 from January through October to municipal issuers requesting an allocation for that month. The treasurer shall increase each monthly installment by the amount of the previous monthly installment that is not allocated to municipal issuers, by the amount of allocations to municipal issuers that have expired, and by the amount of the portion of the unified volume limitation allotted to state issuers that is transferred for allocation to municipal issuers. The treasurer may reserve a portion of a monthly



allotment in anticipation of the necessity of a future allocation in excess of future available allotments or may grant an allocation in excess of the available monthly allotment. After October of each year, the remaining amount of the unified volume limitation allotted for municipal issuers shall be allocated pursuant to section 6(2).

(3) The treasurer shall decrease a monthly installment of the allotment of the unified bond limitation to municipal issuers by a pro rata amount of the amount of any transfer to state issuers pursuant to subsection (1), the amount of a reservation for future allotment pursuant to subsection (2), and the amount of an approved allocation request in excess of the amount of the unified volume limitation available for allocation to municipal issuers in that month pursuant to subsection (2). The pro rata reductions shall be determined according to the number of monthly installments remaining in the year, excluding the monthly installment for the month in which the reservation, transfer, or allocation is made.

**History:** 1988, Act 496, Eff. Mar. 30, 1989.

#### **12.115 Request for allocation; attachment; notice of sale; certification of preliminary proceedings.**

Sec. 5. (1) A state or municipal issuer seeking to issue bonds shall file with the treasurer a request for allocation containing all of the following information and supporting documentation unless the treasurer determines the information required would be unnecessary to the type of bond for which an allocation is requested:

- (a) The name of the issuer.
- (b) The maximum aggregate principal amount of the issue.
- (c) In the case of refunding bonds, the maximum principal amount of the proposed issue, if any, expected to exceed the amount of the obligation to be refunded.
- (d) The facility to be financed.
- (e) The name of the entity or principals of the entity, or both, that will own the facility to be financed by the proceeds of the issue.
- (f) The name of the principal users, if known, of the facility.
- (g) The name of the counsel giving the tax exempt opinion for the issuer on the bond.
- (h) The calendar year for which the request is made.
- (i) Whether a previous request has been made by or on behalf of the issuer for the issue.
- (j) The facility type code used in filing federal form 8038, or its successor form.
- (k) Whether urban development action grants are being sought for the project.
- (l) Whether all necessary public hearings have been held.
- (m) A statement of how and why the project qualifies under the standards of section 6(3).
- (n) Other information that is considered necessary by the treasurer.

(2) Except as provided in subsection (3) and except for carryforward allocations approved pursuant to section 10, a municipal issuer shall attach to a request for allocation an inducement resolution, or other comparable preliminary approval, and evidence of a firm commitment of an investor or underwriter to purchase the bonds described in the request, or other evidence sufficient to indicate the transaction will be completed. Satisfaction of the requirement of subsection (3) is satisfaction of the requirement under this subsection for evidence of a firm commitment of an investor or underwriter to purchase the bonds.

(3) If bonds are to be sold at public sale and involve publication of a notice of sale for the issue, the issuer of the bonds shall file or cause to be filed with its request for allocation a copy of the proposed notice of sale and shall certify to the state treasurer that all proceedings preliminary to the publication of the notice of sale have been completed.

**History:** 1988, Act 496, Eff. Mar. 30, 1989.

#### **12.116 Requests for allocations; order of consideration; approval or denial; reason for denial; steps to maintain orderly application and allocation process; instances in which request may be denied; when request considered filed or received; issuer seeking allocation not in excess of unallocated unified volume limitation.**

Sec. 6. (1) Except as provided by subsection (3), the treasurer shall consider all completed requests for allocations pursuant to section 5 in the order of filing.

(2) The treasurer shall either approve or deny a request for allocation from the unified volume limitation for a particular year that is received before November 1 of the year for which an allocation is sought and between the first and tenth, the eleventh and twentieth, or the twenty-first and the last day of the month, inclusive of the starting and ending dates of the period, by an order issued within 2 business days after the last day of the period in which the request is received. The treasurer shall approve or deny a request for allocation

received in November or December by an order issued by the treasurer within 10 calendar days after receipt of the request. An order denying a request for an allocation shall state the reason for the denial.

(3) If the treasurer determines that facts and circumstances exist whereby the unified volume limitation creates an unreasonable constraint upon state or municipal issuers, the treasurer shall take the steps necessary to maintain an orderly application and allocation process. The steps may include revision of the monthly installment limits prescribed by section 4 and of the application and allocation procedures and may further include, but are not limited to, consideration of the following factors to prioritize the allotment and allocation of the unified volume limitation:

(a) Financing of facilities that will provide or create jobs that enhance the state's economic base.

(b) Financing of facilities that will create net new jobs in the state.

(c) Financing of facilities that will result in the leverage of other sources of capital or the leverage of net new jobs in the state.

(d) Financing of facilities that will contribute to the public health or safety of residents of the state or facilities that are traditionally considered a public purpose including, but not limited to, housing and municipal public works projects.

(4) The treasurer is not required to approve a request for an allocation and may deny a request in any of the following instances:

(a) The request was filed prior to December 1 of the calendar year immediately preceding the calendar year for which the allocation is sought.

(b) The request was filed prior to the completion of all public hearings required by state or federal law.

(c) If the unified volume limitation allotted pursuant to section 4 for the monthly or annual period for which an allocation is being requested is exhausted or if the allocation for the request would exceed the remaining portion of the unified volume limitation allotted pursuant to section 4 for the type of issuer for the monthly or annual period for which an allocation is being requested. This subdivision does not prohibit the treasurer from allocating an amount that is less than the full amount of an allocation request.

(5) The treasurer shall consider a request for an allocation that is incomplete or improperly completed or filed as filed at the time the request is completed or corrected. A request that is not approved or that is denied pursuant to subsection (4)(c) because the unallocated monthly installment of the unified volume limitation allotted pursuant to section 4 for that month for which an allocation is sought is insufficient to satisfy that request shall be considered as a request received on the first day of the immediately following month or shall receive priority consideration for allocation when a sufficient portion of the uniform volume limitation becomes available for allocation for that request. The denial of or the refusal to approve a request pursuant to subsection (4)(c) does not prohibit allocations to and acceptance of a request from an issuer seeking an allocation that is not in excess of the unallocated unified volume limitation.

**History:** 1988, Act 496, Eff. Mar. 30, 1989.

**Compiler's note:** In the second sentence of subsection (5), the words "uniform volume limitation" evidently should read "unified volume limitation".

#### **12.117 Allocation order; requirements; reversion; allocation not transferable between issuers; use of allocation; validity of order; request for extension.**

Sec. 7. (1) An allocation order shall allocate the principal amount of bonds requested or, for an issue of refunding bonds, the principal amount of the proposed issue expected to exceed the amount of the obligation to be refunded, for a request by a municipal issuer, against the amount of the unified volume limitation allotted in section 4 to municipal issuers or, for a state issuer, against the amount allotted to state issuers. Any difference between the amount of the unified volume limitation allocated to an issuer and the amount of the allocation used for the issuance of the bonds for which it applied reverts to the unified volume limitation and to the municipal issuer or state issuer allotment from which the allocation was made.

(2) An allocation issued by the treasurer is not transferable between issuers and shall not be used for purposes other than those for which the allocation was approved.

(3) Other than a carryforward allocation pursuant to section 10, an order of the treasurer issuing an allocation is valid for 30 calendar days after the date of the order or, if the allocation will be used to apply for an urban development action grant or other governmental assistance or if the allocation is to an issuer that is required by law to sell the bonds for which the allocation applies at public sale, for 60 days after the date of the order. Other than a carryforward allocation, an allocation or an extension of an allocation is not valid after November 21 of the year for which the allocation is issued, except that the treasurer may extend the period of an allocation's validity until December 31 of the year for which an allocation is issued. After the issuance of an allocation order, but before the expiration of that initial order, an issuer may request that the period for which the order allocated a portion of the unified volume limitation be extended beyond the initial order's

expiration date. Accompanying a request for extension shall be a statement of the facts and circumstances upon which the request is made.

**History:** 1988, Act 496, Eff. Mar. 30, 1989.

**12.118 Invalidation of request or allocation; notice of changed information; new request for allocation; issuance of bonds before receiving allocation or approval for amendment to allocation; cancellation of prior allocation by approval of new request.**

Sec. 8. (1) A change in the facility to be financed, the issuer, the year for which the allocation is requested, or, if required to be specified in the request for allocation, the owner of the facility invalidates the request. If a change described in this subsection occurs after an allocation is made, the change invalidates the allocation.

(2) A change in any information other than that specified in subsection (1), an increase in the principal amount of the obligation, or, for refunding bonds, an increase in the amount of the issue expected to exceed the amount of the obligation to be refunded does not invalidate the request or allocation if the change or increase occurred after the filing of the request. If the obligation is not yet delivered and the change is a new purchaser, the issuer shall promptly file with the treasurer notice of the changed information, including a commitment of the new purchaser or an assignment of the previous commitment to the new purchaser. If the obligation is not yet delivered and the change is a need for an increase in the allocation, the issuer shall promptly file with the treasurer notice of the changed information, including a new request for allocation for an increase in the amount of the issue due to an increased principal amount or a decreased amount to be used to refund an obligation.

(3) If an issuer issues its bonds before receiving an allocation or approval for an amendment to the allocation request, the state treasurer is not required to issue an allocation, increase a previously approved allocation, or revise the terms of an allocation previously approved.

(4) Before the expiration of an allocation order, an issuer may request a new allocation by filing a new request for allocation pursuant to section 5. The approval of a new request cancels the prior allocation order for the private activity bonds described in the original request.

**History:** 1988, Act 496, Eff. Mar. 30, 1989.

**12.119 Notice of delivery of issue of bonds; filing; contents; failure to file; revocation and invalidation of allocation; waiver of revocation.**

Sec. 9. (1) Within 10 calendar days after the expiration date of an allocation approval order, including any extension, but not later than December 26 for allocations that expire before December 22, the issuer of bonds for which an allocation of the unified volume limitation is made shall file with the treasurer a written notice, on a form to be provided by the treasurer, of the delivery of the issue of bonds for which the allocation was made. This notice shall set forth and be accompanied by all of the following information:

(a) The name of the issuer.

(b) The aggregate principal amount of actually delivered and, for refunding bonds, the principal amount of refunding bonds, if any, exceeding the amount of the obligation to be refunded.

(c) The date of the order allocating the unified volume limitation to the issuer.

(d) The name of the entity or principals of the entity, or both, that will own, or be the principal user of, the facility financed by proceeds of the bonds if this information was required to be specified in the request for allocation.

(e) The date of delivery of the bonds.

(f) A copy of counsel's opinion as to the exemption of the interest on the bonds from federal income tax and a copy of federal form 8038, or its successor form, that has been or will be filed with the internal revenue service.

(2) If an issuer fails to file the notice and the information required by subsection (1)(f), the treasurer shall notify the issuer by mail with return receipt requested of the failure and of the consequence of failing to remedy the failure within 7 calendar days after the filing deadline. Unless filed within 7 calendar days after the deadline date prescribed by subsection (1), failure of an issuer to file the notice required by this section results, after notice and opportunity for a hearing by the department of treasury, in the revocation and invalidation of the allocation of the unified volume limitation to the issuer. The treasurer may waive a revocation under this subsection. If a revocation is waived, the revocation shall be considered never to have invalidated the allocation.

**History:** 1988, Act 496, Eff. Mar. 30, 1989.

**12.120 Order for carryforward allocation; request for carryforward allocation; form; amount; priorities; election.**

Sec. 10. (1) In addition to an allocation under section 6, during the months of October, November, and December of each year, an issuer may request, or the treasurer may order without request, an order providing for a carryforward allocation for a proposed issue of bonds for an identified carryforward purpose described in section 146(f) of the internal revenue code. An issuer's request for a carryforward allocation shall be on a form provided by the treasurer and shall contain the information prescribed by the treasurer.

(2) The treasurer may grant to any issuer a carryforward allocation for the proposed issue or carryforward purpose and shall specify the amount of the carry forward allocation that the issuer may elect to carryforward. If the treasurer determines it necessary, the treasurer shall establish priorities for the carryforward allocations that best serve the interests of the people of the state.

(3) The issuer may elect to treat all or a portion of a carryforward allocation as a carryforward to a future calendar year as specified by the issuer. In making an election, the issuer shall specify the purpose for which the carryforward is elected and the portion of the allocation that is to be carried forward for that purpose. The issuer shall elect the carryforward in the manner provided by the United States secretary of treasury.

**History:** 1988, Act 496, Eff. Mar. 30, 1989.

#### **12.121 Records.**

Sec. 11. (1) The treasurer shall maintain records of the volume of bonds for which the unified volume limitation has been allocated, the amount of the unified volume limitation allocated to state issuers, and the amount allocated to municipal issuers during each calendar year. These records shall be made available to the public during regular business hours.

(2) The treasurer shall maintain a record of each issuer's compliance with section 9, certify that information, and make the record available to the public during regular business hours.

**History:** 1988, Act 496, Eff. Mar. 30, 1989.

#### **12.122 State or municipal issuer not authorized to issue bonds.**

Sec. 12. This act does not authorize a state issuer or a municipal issuer to issue bonds.

**History:** 1988, Act 496, Eff. Mar. 30, 1989.

#### **12.123 Allocations to which act applicable; ratification of allocation; revocation of allocation; formula for allocating state ceiling.**

Sec. 13. (1) This act applies to allocations made against the unified volume limitation for calendar year 1989 and each year after 1989 and to bonds issued after December 31, 1988 that have allocations ratified by subsection (2).

(2) An allocation made under Executive Order 1984-11, 1985-7, 1986-6, or 1986-18, or under section 40 of Act No. 94 of the Public Acts of 1933, being section 141.140 of the Michigan Compiled Laws, for bonds issued on or after January 1, 1989 shall be considered ratified and issued with an allocation authorized by this act unless the allocation issued pursuant to an executive order was a carryforward allocation from the state volume cap for any calendar year prior to 1986.

(3) An allocation made other than through orders issued pursuant to either this act, section 40 of Act No. 94 of the Public Acts of 1933, or Executive Order 1984-11, 1985-7, 1986-6, or 1986-18 is revoked.

(4) This act shall be considered to provide, pursuant to the authority granted by section 146(e) of the internal revenue code, a different formula for allocating the state ceiling among the governmental units of the state having authority to issue bonds from the formula provided in the internal revenue code.

**History:** 1988, Act 496, Eff. Mar. 30, 1989.

#### **12.124 Repeal of MCL 125.1432c.**

Sec. 14. Section 32c of Act No. 346 of the Public Acts of 1966, being section 125.1432c of the Michigan Compiled Laws, is repealed.

**History:** 1988, Act 496, Eff. Mar. 30, 1989.

## **COLLECTION SERVICES TO COURTS**

### **Act 316 of 1993**

AN ACT to provide for the collection of certain past due monetary amounts owed to courts of this state; and to prescribe the powers and duties of certain state and local officers and agencies.

**History:** 1993, Act 316, Eff. Jan. 1, 1994.

*The People of the State of Michigan enact:*

#### **12.131 Definitions.**

Sec. 1. As used in this act:

- (a) "Department" means the department of treasury.
- (b) "Funding unit" means 1 of the following, as applicable:
  - (i) For a circuit other than the third circuit of the circuit court, each county in the circuit.
  - (ii) For the third circuit of the circuit court and for the recorder's court, the state.
  - (iii) For a district other than the thirty-sixth district of the district court, the district control unit of the district, as defined in section 8104 of the revised judiciary act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.8104 of the Michigan Compiled Laws.
  - (iv) For the thirty-sixth district of the district court, the state.
  - (v) For a municipal court, the political unit where the municipal court is located.

**History:** 1993, Act 316, Eff. Jan. 1, 1994.

#### **12.132 Agreement.**

Sec. 2. The department, and a circuit, district, or municipal court, together with its funding unit if its funding unit is not the state, may enter into an agreement as provided in section 3.

**History:** 1993, Act 316, Eff. Jan. 1, 1994.

#### **12.133 Agreement; provisions.**

Sec. 3. An agreement entered into under this act shall provide for at least all of the following:

- (a) Assignment to the state for collection by the department of amounts that have been due and owing the court for not less than 180 days, including, but not limited to, any or all of the following:
  - (i) Fees, including reinstatement fees.
  - (ii) Fines.
  - (iii) Forfeitures.
  - (iv) Penalties and costs assessed for criminal offenses, including the costs of prosecution and providing court-ordered legal assistance to the defendant.
  - (v) Penalties and costs assessed for civil infractions, civil violations, and parking violations.
  - (vi) Penalties and costs assessed for ordinance violations.
  - (vii) Forfeited recognizances.
  - (viii) Late penalties assessed pursuant to section 4803 of the revised judiciary act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.4803 of the Michigan Compiled Laws.
- (b) Provision of the information necessary for the department to identify, locate, and collect delinquent accounts.
- (c) Accounting for, settlement of, and transmission to the court of money collected pursuant to the agreement.
- (d) Collection of a fee by the state treasurer to recoup costs associated with the collection services.

**History:** 1993, Act 316, Eff. Jan. 1, 1994.

#### **12.134 Fees; calculation; collection.**

Sec. 4. A fee imposed by the department to recoup costs associated with the collection services provided under this act shall be calculated and collected on the same basis as fees charged by the department to other state agencies for the same collection services.

**History:** 1993, Act 316, Eff. Jan. 1, 1994.

#### **12.135 Delinquent accounts as debts, unpaid accounts, or amounts due state.**

Sec. 5. For collection purposes only, a delinquent account assigned to the department for collection under this act shall be considered debts, unpaid accounts, or amounts due the state. In carrying out an agreement entered into under section 2, the department shall secure the collection and payment of amounts pursuant to Act No. 375 of the Public Acts of 1927, being sections 14.131 to 14.134 of the Michigan Compiled Laws, and

section 25 of Act No. 122 of the Public Acts of 1941, being section 205.25 of the Michigan Compiled Laws.

**History:** 1993, Act 316, Eff. Jan. 1, 1994.

#### **12.136 Offsetting tax refunds or other payments; order of priority.**

Sec. 6. The department, pursuant to its statutory and common law authority, may offset tax refunds or other payments due from the state to a person who owes a debt to a court that would be collectible under an agreement described in this act. The order of priority in offsetting tax refunds or other payments shall be the order of priority set forth in section 30a(2) of Act No. 122 of the Public Acts of 1941, being section 205.30a of the Michigan Compiled Laws.

**History:** 1993, Act 316, Eff. Jan. 1, 1994.

#### **12.137 Distribution by court of money collected.**

Sec. 7. When the court receives money collected by the department under this act, the court shall, after deducting the amount of the fee paid to the department for the cost of collection, distribute the remaining amount as required by law.

**History:** 1993, Act 316, Eff. Jan. 1, 1994.

#### **12.138 Effective date.**

Sec. 8. This act shall take effect January 1, 1994.

**History:** 1993, Act 316, Eff. Jan. 1, 1994.

#### **12.139 Conditional effective date.**

Sec. 9. This act shall not take effect unless House Bill No. 4957 of the 87th Legislature is enacted into law.

**History:** 1993, Act 316, Eff. Jan. 1, 1994.

#### **12.140 Repealed. 1997, Act 192, Imd. Eff. Dec. 30, 1997.**

**Compiler's note:** The repealed section pertained to repeal of act effective January 1, 1998.



**EXECUTIVE REORGANIZATION ORDER**  
**E.R.O. No. 1991-1**

**12.151 Office of revenue and tax analysis; transferred from state budget director within the department of management and budget to the state treasurer within the department of treasury by type II transfer.**

WHEREAS, Article V, Section 2, of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the Executive Branch or assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, Section 342 of the Act 431 of the Public Acts of 1984, as amended, being Section 18.1342 of the Michigan Compiled Laws, directs the State Budget Director to establish and maintain an economic analysis, revenue estimating and monitoring activity; and

WHEREAS, the law requires this activity to include the preparation of current estimates of all revenue by source for state operating funds for the initial executive budget proposal to the legislature and thereafter through final closing of the state's accounts; and

WHEREAS, many of the functions of the State Budget Director with respect to this activity are dependent upon the activity of the Department of Treasury in monitoring and estimating cash collections of the state from taxes and other sources; and

WHEREAS, the Department of Treasury has legal responsibility for collection of taxes and other revenues and for the management of the cash of the state; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Michigan Constitution of 1963 and the laws of the State of Michigan, do hereby order the following:

(1) All statutory authority, powers, duties, functions, and responsibilities of the State Budget Director pursuant to Section 342 of Act 431 of the Public Acts of 1984, as amended, being Section 18.1342 of the Michigan Compiled Laws, in the Office of Revenue and Tax Analysis within the Department of Management and Budget, are hereby transferred from the State Budget Director within the Department of Management and Budget to the State Treasurer within the Department of Treasury by Type II transfer as defined by Section 3 of Act 380 of the Public Acts of 1965, being Section 16.103 of the Michigan Compiled Laws.

(2) The State Treasurer, as head of the Department of Treasury, shall provide executive direction and supervision for the implementation of the transfer. The assigned functions shall be administered under the direction and supervision of the State Treasurer, as head of the Department of Treasury, and all prescribed functions of rule making, licensing and registration including the prescription of rules, regulations, standards and adjudications, shall be transferred to the State Treasurer as head of the Department of Treasury.

(3) All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Department of Management and Budget for the activities transferred to the Department of Treasury by this Order are hereby transferred to the Department of Treasury.

(4) After the effective date of this Order, the Department of Management and Budget and the Department of Treasury shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this order.

(5) The heads of the Departments of Management and Budget and Treasury shall immediately initiate coordination between their departments to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable State laws and regulations or other obligations to be resolved by the Department of Management and Budget.

(6) All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

(7) Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan, the provisions of this Executive Order shall become effective March 16, 1991, at 11:59 p.m.

**History:** 1991, E.R.O. No. 1991-1, Eff. Mar. 16, 1991.

**EXECUTIVE REORGANIZATION ORDER**  
**E.R.O. No. 1991-2**

**12.161 Bureau of state lottery; transferred from the department of management and budget to the department of treasury.**

WHEREAS, Article V, Section 2, of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the Executive Branch or assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, Act 239 of the Public Acts of 1972 created the Bureau of State Lottery as an autonomous entity for two years, and it was later transferred by Act 210 of the Public Acts of 1974 to be an autonomous entity within the Department of Management and Budget; and

WHEREAS, the purpose of the Bureau of State Lottery is to operate a state lottery in a manner that will produce the maximum amount of net revenues for the state consonant with the general welfare of the people; and

WHEREAS, the Department of Treasury has legal responsibility for collection of taxes and other revenues and for the management of the cash of the state; and

WHEREFORE, the revenue collection and management functions of the Bureau of State Lottery are similar to the functions of the Department of Treasury; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Michigan Constitution of 1963 and the laws of the State of Michigan, do hereby order the following:

(1) All statutory authority, powers, duties, functions and responsibilities, including the functions of budgeting and procurement and management related functions, of the Bureau of State Lottery set forth in Act 239 of the Public Acts of 1972, as amended, being sections 432.1-432.47, and Act 382 of the Public Acts of 1972, being sections 432.101-432.120 of the Michigan Compiled Laws, over the Bureau of State Lottery within the Department of Management and Budget, are hereby transferred from the Department of Management and Budget to be an autonomous entity within the Department of Treasury.

(2) The State Treasurer, as head of the Department of Treasury, shall provide executive direction and supervision for the implementation of the transfer. The Bureau of State Lottery shall exercise its prescribed, statutory powers, duties, and functions of rule making, licensing and registration, including the prescription of rules, rates, regulations, standards and adjudications independently of the State Treasurer as head of the Department of Treasury. All budgeting and related management functions (except procurement) of the Bureau of State Lottery shall be performed under the direction and supervision of the State Treasurer as head of the department of Treasury.

(3) All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Department of Management and Budget for the activities transferred to the Department of Treasury by this Order are hereby transferred to the Department of Treasury.

(4) After the effective date of this Order, the Department of Management and Budget and the Department of Treasury shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this order.

(5) The heads of the Departments of Management and Budget and Treasury shall immediately initiate coordination between their departments to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable State laws and regulations or other obligations to be resolved by the Department of Management and Budget.

(6) All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, or repealed.

(7) Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan, the provisions of this Executive Order shall become effective April 13, 1991 at 11:59 p.m..

**History:** 1991, E.R.O. No. 1991-2, Eff. Apr. 13, 1991.



**EXECUTIVE REORGANIZATION ORDER**  
**E.R.O. No. 1992-7**

**12.171 Transfer of mainframe computer operations, statewide data communications network responsibilities, and technical support and systems development functions performed by the department of labor to the department of treasury by type III transfer.**

WHEREAS, Article V, Section 2, of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, certain data processing functions, activities, duties and responsibilities now performed by the Department of Labor can more effectively and efficiently be carried out in the Department of Treasury; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, Connie Binsfeld, Acting Governor/Lt. Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

(1) All mainframe computer operations, statewide data communications network responsibilities, and technical support and systems development functions now performed by the Department of Labor, but not including such responsibilities and functions of the Michigan Employment Security Commission, are hereby transferred from the Department of Labor to the Department of Treasury by a Type III transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

(2) The Director of the Department of Labor and the State Treasurer shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the State Treasurer and all prescribed functions of rule making, licensing and registration, including the prescription of rules, regulations, standards and adjudications, shall be transferred to the State Treasurer.

(3) All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Department of Labor for the functions transferred to the Department of Treasury by this Order are hereby transferred to the Department of Treasury. The transfer of appropriations, allocations and other funds from the Department of Labor to the Department of Treasury may be accomplished by the Department of Labor purchasing services from the Department of Treasury.

(4) The Director of the Department of Labor and the State Treasurer shall make internal organizational and budgetary changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

(5) The Director of the Department of Labor and the State Treasurer shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying the records, personnel and property to be transferred, any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Labor and the terms under which the Department of Labor shall purchase services from and coordinate with the Department of Treasury.

(6) All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

(7) Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Order shall become effective 60 days after filing.

**History:** 1992, E.R.O. No. 1992-7, Eff. Oct. 18, 1992.

**EXECUTIVE REORGANIZATION ORDER**  
**E.R.O. No. 1995-11**

**12.172 Transfer of responsibilities for computer program analysis and programming for department of labor applications (transferred to department of treasury by E.O. 1992-20) and related systems development functions from department of treasury to department of commerce.**

WHEREAS, Article V, Section 2, of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, certain data processing staff within the Department of Treasury are currently responsible for the development and maintenance of the Department of Labor's mainframe applications; and

WHEREAS, the Department of Management and Budget is consolidating the state's nine Unisys A series data centers; and after the consolidation is implemented, the Department of Treasury will no longer operate a mainframe computer and provide programming services to other departments and agencies; and

WHEREAS, under the agreement that the Department of Commerce provides administrative support services for the Department of Labor, these computer programming services are included in this agreement; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

1. All responsibilities for computer program analysis and programming for all Department of Labor applications transferred to the Department of Treasury by Executive Order 1992-20, and systems development functions related thereto now performed by the Department of Treasury, are hereby transferred from the Department of Treasury to the Department of Commerce.

2. The Director of the Department of Treasury and the Director of the Department of Commerce shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Director of the Department of Commerce.

3. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Department of Treasury for the functions transferred to the Department of Commerce by this Order are hereby transferred to the Department of Commerce.

4. The Director of the Department of Treasury and the Director of the Department of Commerce shall make internal organizational and budgetary changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

5. The Director of the Department of Treasury and the Director of the Department of Commerce shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying the records, personnel and property to be transferred, and any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Treasury and terms which the Department of Treasury will coordinate with the Department of Commerce.

6. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

7. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Executive Order shall become effective 60 days after filing.

**History:** 1995, E.R.O. No. 1995-11, Eff. July 23, 1995.

**EXECUTIVE REORGANIZATION ORDER**  
**E.R.O. No. 1995-2**

**12.181 Transfer of certain powers and duties of the Michigan higher education assistance authority, Michigan higher education student loan authority, and office of student financial assistance services in the department of education to the department of treasury.**

WHEREAS, Article V, Section 1, of the Constitution of the State of Michigan of 1963 vests the executive power in the Governor; and

WHEREAS, Article V, Section 2, of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, it is necessary in the interests of efficient administration and effective government to effect changes in the organization of the Executive Branch of government; and

WHEREAS, the Office of Student Financial Assistance Services in the Department of Education administers programs that provide financial assistance in the form of loans and grants for postsecondary education students with limited financial resources and that provide degree reimbursement assistance to private, nonprofit institutions of higher learning for degrees earned by state residents; and

WHEREAS, the Michigan Higher Education Assistance Authority is responsible for guaranteeing loans to postsecondary students and their parents under various state and federal student loan programs and provides loan applications and information, processes loan applications and monitors compliance with state and federal regulations for the dispensing and collection of student loans; and,

WHEREAS, the Michigan Higher Education Student Loan Authority operates loan programs to make low-interest, long-term educational loans available to postsecondary education students under the Michigan Direct Student Loan Program and to students and parents of students under the Michigan Alternative Student Loan Program, and also operates a State Secondary Market that purchases federally-insured loans from financial institutions, thus providing these institutions with capital to reinvest in new student loans; and

WHEREAS, the Department of Treasury acts as the fiscal agent for various state bonding authorities and assists state authorities with debt issuance to ensure that it is accomplished in a cost-efficient and effective manner, performs loan collection services for defaulted student loans guaranteed by the Michigan Higher Education Assistance Authority, administers the Michigan Education Trust program, is responsible for various state investment and debt management and issuance functions and provides analysis of bonding proposals submitted by state authorities to determine issue finance security; and

WHEREAS, it is important that there be maximum efficiency and coordination in the operation of education student loan programs directed at assisting Michigan residents in gaining access to postsecondary educational opportunities, and

WHEREAS, the functions, duties and responsibilities assigned to the Michigan Higher Education Assistance Authority, the Michigan Higher Education Student Loan Authority, and the Office of Student Financial Assistance Services can be more effectively organized and carried out under the supervision and direction of the State Treasurer;

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

1. All the authority, powers, duties, functions and responsibilities, with the exception of those functions set forth in paragraph 3 of this Order, of the Michigan Higher Education Assistance Authority, the Michigan Higher Education Student Loan Authority and the Office of Student Financial Assistance Services in the Department of Education set forth in Act No. 77 of the Public Acts of 1960, as amended, being Section 390.951 et seq. of the Michigan Compiled Laws; Act No. 222 of the Public Acts of 1975, as amended, being Section 390.1151 et seq. of the Michigan Compiled Laws; Act No. 208 of the Public Acts of 1964, as amended, being Section 390.971 et seq. of the Michigan Compiled Laws; Act No. 313 of the Public Acts of 1966, as amended, being Section 390.991 et seq. of the Michigan Compiled Laws; Act No. 228 of the Public Acts of 1976, being Section 390.1301 et seq. of the Michigan Compiled Laws; Act No. 75 of the Public Acts of 1974, as amended, being Section 390.1021 et seq. of the Michigan Compiled Laws; Act No. 174 of the Public Acts of 1976, as amended, being Section 390.1251 et seq. of the Michigan Compiled Laws; Act No. 303 of the Public Acts of 1986, being Section 390.1321 et seq. of the Michigan Compiled Laws; Act No. 288 of the Public Acts of 1986, as amended, being Section 390.1371 et seq. of the Michigan Compiled Laws; Act No. 102 of the Public Acts of 1986, being Section 390.1281 et seq. of the Michigan Compiled Laws; Act No. 273 of the Public Acts of 1986, being Section 390.1401 et seq. of the Michigan Compiled Laws; Act No. 105

of the Public Acts of 1978, as amended, being Section 390.1271 et seq. of the Michigan Compiled Laws; Act No. 219 of the Public Acts of 1969, being Section 390.1001 et seq. of the Michigan Compiled Laws; and the federal Higher Education Act of 1965, 20 USC 1001 et seq., are hereby transferred to the Department of Treasury. The authorities shall retain, with the exception of those functions set forth in paragraph 3, all of their statutory authority, powers, duties and responsibilities, which they shall exercise independently of the State Treasurer. The functions the authorities retain include, but are not limited to, the functions of rule-making, adjudication, licensing and registration and the prescription of rules, rates, regulations and standards. In addition, the transfer includes, but is not limited to, bond, note, reserve and trust funds, subject to any agreement with note and bond holders or with the holders or issuers of instruments that may have been guaranteed.

2. The State Treasurer shall replace the Superintendent of Public Instruction as an ex officio member and chairman of the Michigan Higher Education Assistance Authority established pursuant to section 2 of Act No. 77 of 1960, as amended, being section 390.952 of the Michigan Compiled Laws and as an ex officio member and chairman of the Michigan Higher Education Student Loan Authority established pursuant to section 3 of Public Act 222 of 1975, as amended, being section 390.1153 of the Michigan Compiled Laws.

3. The State Treasurer shall provide executive direction and supervision for the implementation of the transfers. All administrative functions, including budgeting, procurement and related management functions of the authorities, shall be performed under the direction and supervision of the State Treasurer. The Department of Treasury shall function as the appointing authority for the civil service employees of the authorities.

4. The State Treasurer shall administer the assigned functions in such a way as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

5. All records, personnel, property, and unexpended balances of appropriations, allocations and other funds used, held, employed, available, or to be made available to the Department of Education for the functions transferred to the Department of Treasury by this Order are hereby transferred to the Department of Treasury.

6. The State Treasurer and the Superintendent of Public Instruction shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Education.

7. All rules, orders, contracts, and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

8. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Executive Order shall become effective 60 days after filing.

**History:** 1995, E.R.O. No. 1995-2, Eff. Apr. 5, 1995.

**Compiler's note:** For consolidation of administrative staff of Michigan higher education assistance authority, Michigan higher education facilities authority, Michigan higher education student loan authority, Michigan municipal bond authority, and state hospital finance authority, and for transfer of certain functions to state treasurer, see E.R.O. No. 2002-8, compiled at MCL 12.193.

**EXECUTIVE REORGANIZATION ORDER**  
**E.R.O. No. 1995-19**

**12.182 Transfer of powers and duties of the Michigan underground storage tank financial assurance authority from the department of management and budget to the department of treasury.**

WHEREAS, Article V, Section 1, of the Constitution of the State of Michigan of 1963 vests the executive power in the Governor; and

WHEREAS, Article V, Section 2, of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, it is necessary in the interests of efficient administration and effective government to effect changes in the organization of the Executive Branch of government; and

WHEREAS, the Michigan Underground Storage Tank Financial Assurance Authority is created as a body corporate within the Department of Management and Budget by part 215 of Act No. 451 of the Public Acts of 1994, as amended, being Section 324.21501 et seq. of the Michigan Compiled Laws; and

WHEREAS, the Michigan Underground Storage Tank Financial Assurance Authority assists in financing the cost of the replacement of petroleum underground storage tanks and the remediation of property damaged by the released petroleum from underground storage tank systems and is authorized to, among other things, issue and sell notes and bonds for such purposes; and

WHEREAS, the Department of Treasury acts as the fiscal agent for various state bonding authorities and assists state authorities with debt issuance to ensure that it is accomplished in a cost-efficient and effective manner, is responsible for various state investment and debt management and issuance functions, and provides analysis of bonding proposals submitted by state and local authorities to determine whether there is adequate security for each issue; and

WHEREAS, it is important that there be maximum efficiency and coordination in the operation of financing programs; and

WHEREAS, the functions, duties and responsibilities assigned to the Michigan Underground Storage Tank Financial Assurance Authority can be more effectively organized and carried out under the supervision and direction of the State Treasurer.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, order the following:

1. All the authority, powers, duties, functions and responsibilities of the Michigan Underground Storage Tank Financial Assurance Authority set forth in part 215 of Act No. 451 of the Public Acts of 1994, as amended, being Section 324.21501 et seq. of the Michigan Compiled Laws, are transferred from the Department of Management and Budget to the Department of Treasury. The authority shall retain, with the exception of those functions set forth in paragraph 3, all of its statutory authority, powers, duties and responsibilities, which it shall exercise independently of the State Treasurer. In addition, the transfer includes, but is not limited to, bond, note, loan, grant, reserve and trust funds, subject to any agreement with note and bond holders, borrowers, grant recipients, contract holders or the holders or issuers of instruments that may have been guaranteed.

2. The State Treasurer shall replace the Director of the Department of Management and Budget as a member of the board of directors of the Michigan Underground Storage Tank Financial Assurance Authority created in Section 21523 of Act No. 451 of 1994, as amended, being Section 324.21523 of the Michigan Compiled Laws. Prior consent of the State Treasurer, instead of the Director of the Department of Management and Budget, shall be required with respect to the authority's power to budget, solicit and accept gifts, grants, loans and other aid from any person or the federal, state, or local government or any agency of the federal, state, or local government, or participate in any other way in a federal, state or local government program.

3. The State Treasurer shall provide executive direction and supervision for the implementation of the transfer. All administrative functions, including budgeting, procurement and related management functions of the authority, shall be performed under the direction and supervision of the State Treasurer. The Department of Treasury shall function as the appointing authority for the civil service employees of the authority. The authority may contract with the Department of Treasury for the purpose of maintaining and improving the rights and interests of the authority.

4. The State Treasurer shall administer the assigned functions in such a way as to promote efficient

administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

5. All records, personnel, property, and unexpended balances of appropriations, allocations and other funds used, held, employed, available, or to be made available to the Department of Management and Budget for the activities and functions transferred to the Department of Treasury by this Order are hereby transferred to the Department of Treasury.

6. The State Treasurer and the Director of the Department of Management and Budget shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the authority or the Department of Management and Budget.

7. All rules, orders, contracts, and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

8. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Executive Order shall become effective 60 days after filing.

**History:** 1995, E.R.O. No. 1995-19, Eff. Jan. 31, 1996.



**EXECUTIVE REORGANIZATION ORDER**  
**E.R.O. No. 2000-5**

**12.183 Establishment of Michigan debt advisory board within department of treasury.**

WHEREAS, Act No. 202 of the Public Acts of 1943, being Sections 131.1 et seq. of the Michigan Compiled Laws, authorizes and directs the State Treasurer to protect the credit of the state and its municipalities; and

WHEREAS, the state, and agencies and authorities of the state, are authorized by law to issue bonds, notes, obligations, and other evidence of indebtedness; and

WHEREAS, preserving and enhancing the state's credit rating and maintaining future low-cost capital financing is beneficial to the state and its citizens; and

WHEREAS, consistent consideration of the state's overall management of debt promotes the effective integration of the state's debt capacity with its capital financing needs; and

WHEREAS, access to the capital markets can be enhanced by the effective coordination of debt issuance financing and related activities.

NOW, THEREFORE, I, John Engler, Governor of the state of Michigan, pursuant to the powers vested in me by the Constitution of the state of Michigan of 1963 and the laws of the state of Michigan, do hereby order the following:

**A. Establishment of the Michigan Debt Advisory Board**

1. The Michigan Debt Advisory Board ("Board") is hereby established within the Department of Treasury. The Board shall consist of the State Treasurer, the Director of the Department of Consumer and Industry Services, the Director of the Department of Management and Budget, the Director of the Department of Transportation, and the State Budget Director.

2. Members of the Board shall serve without compensation. Members of the Board may receive reimbursement for necessary travel and expenses according to relevant procedures of the Department of Management and Budget and Civil Service Commission rules and regulations.

3. Members of the Board shall attend Board meetings in person, and shall not delegate their responsibilities to other persons. The Chairperson of the Board shall be the State Treasurer. The Board shall meet at least once annually.

**B. Charge to the Board**

1. The Board is charged with advising and making recommendations to the Governor on matters relating to debt issuance, debt management and debt capacity. To carry out its charge, the Board may engage in, but is not limited to, the following activities:

a. Review and report to the Governor the state's debt capacity, considering both legal capacity and debt affordability;

b. Review and make recommendations for changes in state laws and policies that govern or affect the management or issuance of debt by the state and its agencies and authorities;

c. Ensure the coordination of debt issuance by the state and its agencies and authorities in terms of market access and timing; and

d. Provide advice and counsel to the Governor on the state's credit ratings.

The Chief Deputy Treasurer shall chair the meetings of the Committee, set the agendas, oversee the activities of the Committee, to the extent such activities specifically pertain to the purposes set forth by the Board, and coordinate requests made to the Committee by the Board.

2. At its first meeting, the Board shall establish the Michigan Debt Issuers Committee to serve as a resource to the Board. The Committee shall consist of the Chief Deputy Treasurer and other state officials (or their designees), as determined by the Board, directly involved in the issuance of bonds, notes, obligations, or other evidence of indebtedness by the state or by agencies or authorities of the state. The Committee shall meet at least once monthly, or as otherwise determined by the Board, for purposes specified by the Board. Such purposes may include the following:

a. Coordination of the timing of debt issuance;

b. Sharing of information concerning trends in debt issuance and market activity;

c. Working to utilize fully and improve the use of technology in activities related to debt issuance; and

d. Providing information and coordination on disclosure standards in both the primary and secondary markets.

**C. Miscellaneous**

1. The Board shall be staffed by personnel within the Department of Treasury, to be designated by the State Treasurer.

2. All principal departments and other state agencies shall cooperate with the Board in the performance of its responsibilities. The Board may request, and principal departments and other state agencies shall provide, such policy and technical information as is required by the Board in the discharge of its responsibilities. Agencies shall make every effort to provide the Board with key staff and other means of support to assist in the performance of its duties.

3. The Board may promulgate bylaws, consistent with law and with this Executive Order, to govern its organization and procedure.

4. The Board may hire or retain such contractors, sub-contractors, advisors, consultants and agents, and may make and enter into contracts necessary or incidental to the exercise of the powers of and the performance of its duties as the State Treasurer may deem advisable and necessary, in accordance with the relevant statutes, rules and procedures of the Civil Service Commission and the Department of Management and Budget.

5. This Executive Order shall not affect in any way the autonomous nature of any agency or authority of the state, including that agency's or authority's ability to independently exercise its authority, powers, duties, and responsibilities as provided by law.

The provisions of this Executive Order shall become effective upon filing.

**History:** 2000, E.R.O. No. 2000-5, Eff. Sept. 5, 2000.

### **EXECUTIVE REORGANIZATION ORDER E.R.O. No. 2001-5**

**12.191 Rescinded. 2002, E.R.O. No. 2002-3, Eff. May 12, 2002.**



**EXECUTIVE REORGANIZATION ORDER**  
**E.R.O. No. 2002-3**

**12.192 Creation of Michigan public educational facilities authority as public body corporate and politic; location in department of treasury; transfer of certain powers and duties from Michigan strategic fund and Michigan strategic fund board of directors to Michigan public educational facilities authority and Michigan public educational facilities authority board of trustees; transfer of certain powers and duties from Michigan municipal bond authority and Michigan municipal bond authority board of trustees to Michigan public educational facilities authority and Michigan public educational facilities authority board of trustees; rescission of executive order no. 2001-11.**

WHEREAS, Article V, Section 1, of the Constitution of the state of Michigan of 1963 vests the executive power in the Governor; and

WHEREAS, Article V, Section 2, of the Constitution of the state of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units, which he considers necessary for efficient administration; and

WHEREAS, the state of Michigan has public schools that are in need of new public educational facilities or whose existing public educational facilities are in need of renovation and remodeling; and

WHEREAS, the United States Congress recently passed, and President George W. Bush signed, The Economic Growth and Tax Relief Reconciliation Act of 2001, which includes a provision authorizing the issuance of "qualified public educational facility bonds" as exempt facility bonds under Section 142 of the Internal Revenue Code of 1986, as amended, being 26 USC 142; and

WHEREAS, The Economic Growth and Tax Relief Reconciliation Act of 2001 limits the amount of qualified public educational facility bonds that may be issued as tax-exempt bonds and provides that the state may allocate the amount of qualified public educational facility bonds in such manner as the state deems appropriate; and

WHEREAS, the availability of exempt facility bonds for qualified public educational facilities will provide public schools across the country with a means for addressing the difficulties encountered in financing the construction, rehabilitation, refurbishing or equipping of public educational facilities; and

WHEREAS, the state can effectively and efficiently provide for a qualified public educational facility bond program by establishing a new authority, the Michigan Public Educational Facilities Authority, within the Department of Treasury; and

WHEREAS, the creation of the Michigan Public Educational Facilities Authority may also create an opportunity for the state of Michigan to partner with other states to facilitate the acquisition of capital for the construction, rehabilitation, refurbishing or equipping of qualified public educational facilities; and

WHEREAS, it is necessary in the interests of efficient administration and good government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the state of Michigan, pursuant to the powers vested in me by the Constitution of the state of Michigan of 1963 and the laws of the state of Michigan, do hereby order the following:

**I. DEFINITIONS**

As used herein:

A. "Authority" means the Michigan Public Educational Facilities Authority created by this Order.

B. "Board" means the Michigan Public Educational Facilities Authority Board of Trustees created by this Order.

C. The "Center for Educational Performance and Information" means the temporary state agency created by Executive Order 2000-9, being Section 388.996 et seq. of the Michigan Compiled Laws.

D. The "Department of Treasury" means the principal department created by Section 75 of Act No. 380 of the Public Acts of 1965, being Section 16.175 of the Michigan Compiled Laws.

E. The "Michigan Municipal Bond Authority" means the body corporate created under the Shared Credit Rating Act, Act No. 227 of the Public Acts of 1985, as amended, being Section 141.1051 et seq. of the Michigan Compiled Laws, and includes the Michigan Municipal Bond Authority Board of Trustees.

F. The "Michigan Strategic Fund" means the public body corporate and politic created under Act No. 270 of the Public Acts of 1984, as amended, being Section 125.2001 et seq. of the Michigan Compiled Laws, and includes the Michigan Strategic Fund Board of Directors.

G. "Public School" means a public elementary or secondary educational entity or agency that is established

under the Revised School Code, Act No. 451 of the Public Acts of 1976, as amended, being Section 380.1 et seq. of the Michigan Compiled Laws, and has as its primary mission the teaching and learning of academic and vocational-technical skills and knowledge, and is operated by a school district, local act school district, special act school district, intermediate school district, public school academy corporation, strict discipline academy corporation, or by the Department of Education or the State Board of Education. Public school also includes a laboratory school or other elementary or secondary school that is controlled and operated by a state public university described in Article VIII, Section 4, 5 or 6, of the Constitution of the state of Michigan of 1963.

H. "Qualified Public Educational Facility" shall have the same meaning as defined in Section 422 of The Economic Growth and Tax Relief Reconciliation Act of 2001, codified in Section 142 of the Internal Revenue Code of 1986, as amended, being 26 USC 142.

## **II. CREATION OF THE MICHIGAN PUBLIC EDUCATIONAL FACILITIES AUTHORITY**

A. The Michigan Public Educational Facilities Authority is hereby created as a public body corporate and politic. The authority shall be located within the Department of Treasury and shall exercise the powers transferred or assigned to it by this executive order independently of the State Treasurer, except that budgeting, personnel, procurement and related functions shall be performed under the direction and supervision of the State Treasurer.

B. The purposes, powers and duties of the authority shall be vested in and exercised by a board of trustees consisting of:

1. The State Treasurer, who may appoint a representative from the Department of Treasury to serve as a voting member of the board in the absence of the State Treasurer.

2. Four (4) trustees appointed by the governor, with the advice and consent of the Senate. Not more than two (2) of the trustees appointed under this subsection shall be members of the same political party.

C. Except as otherwise provided in this subsection, appointed trustees shall hold office for a term of four (4) years. However, of the trustees initially appointed, the Governor shall designate two (2) to serve a term of four (4) years, one (1) to serve a term of three (3) years, and one (1) to serve a term of two (2) years.

D. A vacancy on the board caused by the expiration of a term or other cause of termination of membership on the board shall be filled in the same manner as the original appointment.

E. A trustee appointed to fill a vacancy created other than by expiration of a term shall be appointed for the unexpired term of the trustee who he or she is to succeed in the same manner as the original appointment. A trustee may be reappointed for additional terms.

## **III. OPERATIONS OF THE MICHIGAN PUBLIC EDUCATIONAL FACILITIES AUTHORITY BOARD OF TRUSTEES**

A. The Governor shall designate one trustee to serve as chairperson of the board. The chairperson shall serve as chairperson at the pleasure of the Governor.

B. The board may adopt bylaws, not inconsistent with law and with this Order, governing its organization, operation and procedure.

C. The business which the board may perform shall be conducted at a public meeting of the board held in compliance with the Open Meetings Act, Act No. 267 of the Public Acts of 1976, being Section 15.261 et seq. of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

D. A majority of the serving trustees constitutes a quorum for the transaction of business at a meeting. The board shall act by a majority vote of the trustees present at a meeting.

E. The board shall meet at the call of the chairperson and as may be provided in the bylaws of the board. Meetings of the board may be held at any location within the state of Michigan.

F. The board may, as appropriate, make inquiries, studies, and investigations, hold hearings, and receive comments from the public.

G. Trustees shall serve without compensation. Trustees may receive reimbursement for necessary travel and expenses according to the relevant procedures of the Civil Service Commission and the Department of Management and Budget.

H. The board may hire or retain such contractors, sub-contractors, advisors, consultants and agents, and may make and enter into contracts necessary or incidental to the exercise of the powers of the board and the performance of its duties as the board may deem advisable and necessary, in accordance with the relevant statutes, rules and procedures of the Civil Service Commission and the Department of Management and Budget.

I. Subject to appropriations and other applicable law, the board may apply for, receive and expend monies from any source, public or private, including but not limited to, gifts, grants, donations of monies and

government appropriations. The board may also accept donations of labor, services or other things of value from any public or private agency or person.

J. The authority shall be staffed by personnel within the Department of Treasury, as designated by the State Treasurer.

#### **IV. MICHIGAN STRATEGIC FUND**

All the statutory authority, powers, duties, functions and responsibilities with respect to a commercial enterprise involving the construction, rehabilitation, refurbishing or equipping of school facilities that are occupied or to be occupied by a public school, provided under the Michigan Strategic Fund Act, Act No. 270 of the Public Acts of 1984, as amended, being Section 125.2001 et seq. of the Michigan Compiled Laws, including without limitation the power to issue bonds and notes and to enter into contracts, are hereby transferred from the Michigan Strategic Fund and the Michigan Strategic Fund Board of Directors to the Michigan Public Educational Facilities Authority and the Michigan Public Educational Facilities Authority Board of Trustees.

#### **V. BOND VOLUME ALLOCATION**

The authority is hereby designated and authorized to receive and utilize all allocations of the amount of tax-exempt obligations that may be issued to finance qualified public educational facilities as provided by Section 142(k)(5) of the Internal Revenue Code of 1986, as amended, being 26 USC 142(k)(5).

#### **VI. MICHIGAN MUNICIPAL BOND AUTHORITY**

A. Except as provided in Paragraph B, the statutory authority, powers, duties, functions and responsibilities of the Michigan Municipal Bond Authority and the Michigan Municipal Bond Authority Board of Trustees, including without limitation the power to issue bonds and notes and enter into contracts, as such authority, powers, duties, functions and responsibilities relate to governmental units which are a public school academy or a laboratory school or other elementary or secondary school that is controlled and operated by a state public university described in Article VIII, Section 4, 5 or 6, of the constitution of the state of Michigan of 1963, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in the Shared Credit Rating Act, Act No. 227 of the Public Acts of 1985, as amended, being Section 141.1051 et seq. of the Michigan Compiled Laws, Section 1225 of the Revised School Code, Act No. 451 of the Public Acts of 1976, as amended, being Section 380.1225 of the Michigan Compiled Laws, and the State School Aid Act of 1979, Act No. 94 of the Public Acts of 1979, as amended, being Section 388.1601 et seq. of the Michigan Compiled Laws, are hereby transferred from the Michigan Municipal Bond Authority and the Michigan Municipal Bond Authority Board of Trustees to the Michigan Public Educational Facilities Authority and the Michigan Public Educational Facilities Authority Board of Trustees.

B. The transfer provided for in Subsection A. does not transfer the authorities, powers, duties, functions, responsibilities, rights and obligations of the Michigan Municipal Bond Authority and the Michigan Municipal Bond Authority Board of Trustees related to:

1. any outstanding public school academy bonds or notes or any reserve or trust funds relating to such bonds or notes; or
2. any long-term public school academy facility program financing for which an application was submitted to the Michigan Municipal Bond Authority on July 23, 2001, including that portion of the appropriation for public school academy financing to be deposited into the reserve fund for that transaction.

#### **VII. MISCELLANEOUS**

A. The State Treasurer shall provide executive direction and supervision for the implementation of all transfers of authority to the Michigan Public Educational Facilities Authority made under this Order.

B. The State Treasurer shall administer the assigned functions transferred by this Order in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

C. The State Treasurer shall identify the program positions and administrative function positions that will be transferred to the Michigan Public Educational Facilities Authority according to the terms of this Order. The State Treasurer shall develop an agreement specifying these positions no later than the effective date of this Order.

D. The State Treasurer shall immediately initiate coordination with the directors of all other state departments and agencies having authority transferred to the Michigan Public Educational Facilities Authority under this Order to facilitate the transfer and to develop memoranda of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved related to the authority to be transferred.

E. All records, personnel, property, grants and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to any entity for the activities, powers,

duties, functions and responsibilities transferred from the Michigan Municipal Bond Authority and the Michigan Strategic Fund by this Order are hereby transferred to the Michigan Public Educational Facilities Authority.

F. The State Treasurer may request the assistance of other state agencies with respect to personnel, budgeting, procurement, information systems and other management-related functions and such agencies shall provide such assistance.

G. The Michigan Public Educational Facilities Authority will prepare and submit an annual report to the Center for Educational Performance and Information which will include the total number of bond issues, dollar amount of the bond issues, number of public schools assisted, the geographic distribution of the bond financing and the types of facilities financed.

H. The State Treasurer may by written instrument delegate a duty or power conferred by law or this Order and the person to whom such duty or power is so delegated may perform such duty or exercise such power at the time and to the extent that such duty or power is delegated by the State Treasurer.

I. All rules, orders, contracts, grants and agreements relating to the functions transferred to the Michigan Public Educational Facilities Authority by this Order lawfully adopted prior to the effective date of this Order by the responsible state agency shall continue to be effective until revised, amended or rescinded.

J. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records affected by this Order in the state's financial management system for the remainder of this fiscal year.

K. The Michigan Public Educational Facilities Authority is a separate and distinct authority from the School Bond Loan Fund established by Act No. 74 of the Public Acts of 1955, as amended, being Section 388.921 et seq. of the Michigan Compiled Laws, and shall have no impact on the amount of loans available to school districts through the School Bond Loan Fund.

L. The invalidity of any portion of this Order shall not affect the validity of the remainder thereof.

M. Executive Order 2001-11, creating the Michigan Public Educational Facilities Authority and the Michigan Public Educational Facilities Authority Board of Trustees, is hereby rescinded in its entirety as of the effective date of this order. The Michigan Public Educational Facilities Authority and the Michigan Public Educational Facilities Authority Board of Trustees created by Executive Order 2001-11 are hereby abolished as of the effective date of this Order.

**History:** 2002, E.R.O. No. 2002-3, Eff. May 12, 2002.

**EXECUTIVE REORGANIZATION ORDER**  
**E.R.O. No. 2002-8**

**12.193 Consolidation of administrative staff of Michigan higher education assistance authority, Michigan higher education facilities authority, Michigan higher education student loan authority, Michigan municipal bond authority, and state hospital finance authority; transfer of certain functions to state treasurer.**

WHEREAS, Article V, Section 1, of the Constitution of the state of Michigan of 1963 vests the executive power in the Governor; and

WHEREAS, Article V, Section 2, of the Constitution of the state of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, the Department of Treasury serves as the fiscal agent for various state authorities, including the Michigan Higher Education Assistance Authority, the Michigan Higher Education Facilities Authority, the Michigan Higher Education Student Loan Authority, the Michigan Municipal Bond Authority, and the State Hospital Finance Authority; and

WHEREAS, the Department of Treasury is responsible for various state investment and debt management and issuance functions and assists these authorities with debt issuance to ensure that these functions are accomplished in a coordinated, cost-efficient and effective manner; and

WHEREAS, the Michigan Higher Education Assistance Authority, the Michigan Higher Education Facilities Authority, the Michigan Higher Education Student Loan Authority, the Michigan Municipal Bond Authority, and the State Hospital Finance Authority currently maintain separate administrative staff, resulting in a duplication of tasks and structure; and

WHEREAS, sound management dictates combining the administrative staff of the Michigan Higher Education Assistance Authority, the Michigan Higher Education Facilities Authority, the Michigan Higher Education Student Loan Authority, the Michigan Municipal Bond Authority, and the State Hospital Finance Authority into a single work unit under the direction and supervision of the State Treasurer, thereby merging the administrative staff into a more efficient and coordinated management structure; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the state of Michigan, pursuant to the powers vested in me by the Constitution of the state of Michigan of 1963 and the laws of the state of Michigan, do hereby order the following:

**I. DEFINITIONS**

As used herein:

A. "Administrative staff" means any and all state classified personnel who perform any function for the authorities covered by the provisions of this Executive Order.

B. The "Department of Treasury" means the principal department created by Section 75 of Act No. 380 of the Public Acts of 1965, being Section 16.175 of the Michigan Compiled Laws.

C. The "Michigan Higher Education Assistance Authority" means the non-profit authority created as an agency within the Department of Education by Section 1 of Act No. 77 of the Public Acts of 1960, as amended, being Section 390.951 of the Michigan Compiled Laws, and transferred to the Department of Treasury by Executive Order 1995-3, being Section 12.181 of the Michigan Compiled Laws.

D. The "Michigan Higher Education Facilities Authority" means the public body corporate and politic created as an agency and instrumentality of the state within the Department of Education by Section 3 of Act No. 295 of the Public Acts of 1969, as amended, being Section 390.923 of the Michigan Compiled Laws, and transferred to the Department of Treasury by Executive Order 1992-2, being Section 390.940 of the Michigan Compiled Laws.

E. The "Michigan Higher Education Student Loan Authority" means the public body corporate and politic created within the Department of Education by Section 3 of Act No. 222 of the Public Acts of 1975, as amended, being Section 390.1153 of the Michigan Compiled Laws, and transferred to the Department of Treasury by Executive Order 1995-3, being Section 12.181 of the Michigan Compiled Laws.

F. The "Michigan Municipal Bond Authority" means the body corporate, separate and distinct from the state, created within the Department of Treasury by Act No. 227 of the Public Acts of 1985, as amended, being Section 141.1051 et seq. of the Michigan Compiled Laws.

G. The "State Hospital Finance Authority" means the public body corporate and politic of the state created within the Department of Treasury by Section 11 of Act No. 38 of 1969, as amended, being Section 331.41 of



the Michigan Compiled Laws.

## **II. TRANSFERS**

A. The administrative staff of the Michigan Higher Education Assistance Authority, the Michigan Higher Education Facilities Authority, the Michigan Higher Education Student Loan Authority, the Michigan Municipal Bond Authority, and the State Hospital Finance Authority are hereby combined into a single work unit under the direction and supervision of the State Treasurer, thereby merging the administrative staff from each separate authority into this work unit.

B. The Michigan Higher Education Assistance Authority, the Michigan Higher Education Facilities Authority, the Michigan Higher Education Student Loan Authority, the Michigan Municipal Bond Authority, and the State Hospital Finance Authority shall retain, with the exception of those functions set forth in paragraph II. C., all of the remaining statutory authority, powers, duties, and responsibilities, which they have and shall continue to exercise independently of the State Treasurer. These functions shall include, but not be limited to, the functions of rule-making, adjudication, licensing and regulation, and the prescription of rules, rates, regulations and standards as applicable. This transfer is subject to any agreement executed prior to the issuance of this order with note holders, bond holders or issuers of instruments that are guaranteed.

C. All administrative functions, including budgeting, procurement, personnel, and management functions related to the administrative staff of the Michigan Higher Education Assistance Authority, the Michigan Higher Education Facilities Authority, the Michigan Higher Education Student Loan Authority, the Michigan Municipal Bond Authority, and the State Hospital Finance Authority, including, but not limited to, the statutory authority, powers, duties and responsibilities related to administrative staff set forth in:

1. Section 7(d) of Act No. 77 of the Public Acts of 1960, as amended, being Section 390.957(d) of the Michigan Compiled Laws (power of Michigan Higher Education Assistance Authority to competitively contract for services, including contracts related to administrative staff);

2. Section 4(l) of Act No. 295 of the Public Acts of 1969, as amended, being Section 390.924(l) of the Michigan Compiled Laws (power of Michigan Higher Education Facilities Authority to appoint employees, describe their duties and fix their compensation subject to the civil service laws of the state);

3. Section 4(k) of Act No. 222 of the Public Acts of 1975, as amended, being Section 390.1154(k) of the Michigan Compiled Laws (power of Michigan Higher Education Student Loan Authority to appoint employees, describe their duties and fix their compensation subject to the rules promulgated by the state department of civil service);

4. Section 6(1) of Act No. 227 of the Public Acts of 1985, as amended, being Section 141.1056(1) of the Michigan Compiled Laws (power of Michigan Municipal Bond Authority Board to employ permanent or temporary employees); and

5. Section 12(j) of Act No. 38 of the Public Acts of 1969, as amended, being Section 331.42(j) of the Michigan Compiled Laws (power of the State Hospital Finance Authority to engage necessary personnel) are hereby transferred to the State Treasurer.

D. The State Treasurer shall hereafter function as the appointing authority for the state classified administrative staff employees of the Michigan Higher Education Assistance Authority, the Michigan Higher Education Facilities Authority, the Michigan Higher Education Student Loan Authority, the Michigan Municipal Bond Authority, and the State Hospital Finance Authority.

## **III. MISCELLANEOUS**

A. The State Treasurer shall, in the State Treasurer's discretion, ensure that the administrative staff resources available to the Michigan Higher Education Assistance Authority, the Michigan Higher Education Facilities Authority, the Michigan Higher Education Student Loan Authority, the Michigan Municipal Bond Authority, and the State Hospital Finance Authority are sufficient to perform the functions of the respective authorities as provided for by law.

B. The State Treasurer shall provide executive direction and supervision for the implementation of the transfer made under this Order. The assigned functions shall be administered under the direction and supervision of the State Treasurer.

C. The State Treasurer shall administer the assigned functions transferred by this Order in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

D. All records, personnel, property, grants and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available for the activities, power, duties, functions and responsibilities transferred by this Order are hereby transferred to the State Treasurer.

E. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system for the remainder of the year.

F. All rules, orders, contracts, grants and agreements relating to the functions transferred to the Department of Treasury or the State Treasurer by this Order lawfully adopted prior to the effective date of this Order by the responsible state agency shall continue to be effective until revised, amended or rescinded.

G. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order, shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

H. The invalidity of any portion of this Order shall not affect the validity of the remainder thereof.

**History:** 2002, E.R.O. No. 2002-8, Eff. Sept. 23, 2002.

## **THE FORENSIC LABORATORY FUNDING ACT**

### **Act 35 of 1994**

AN ACT to create the state forensic laboratory fund; to authorize local forensic laboratory funds; to provide for assessments against certain criminal defendants; to provide for expenditures from the forensic laboratories funds; to make certain appropriations; and to prescribe the powers and duties of certain departments and agencies and local units of government.

**History:** 1994, Act 35, Eff. June 6, 1994;—Am. 1998, Act 98, Imd. Eff. May 15, 1998.

*The People of the State of Michigan enact:*

#### **12.201 Short title.**

Sec. 1. This act shall be known and may be cited as “the forensic laboratory funding act”.

**History:** 1994, Act 35, Eff. June 6, 1994.

#### **12.202 Definitions.**

Sec. 2. As used in this act:

(a) “CSC offense” means a violation or attempted violation of section 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

(b) “Forensic laboratory” means a laboratory maintained by the department of state police or a municipality that meets all of the following criteria:

(i) Has at least 1 regularly employed forensic scientist who conducts analyses of controlled substances or androgenic anabolic steroids for criminal justice agencies in criminal matters, and provides testimony with respect to those analyses.

(ii) Is registered as an analytical laboratory with the drug enforcement administration of the United States department of justice for possessing all scheduled controlled substances.

(iii) Has at least 1 regularly employed forensic scientist who conducts forensic tests other than those described in subparagraph (i) and provides testimony with respect to those forensic tests.

(c) “Forensic test” means a drug analysis, toxicology analysis, or other forensic analysis or examination in areas including, but not limited to, latent prints, microchemistry, serology, firearms, toolmarks, or questioned documents. Forensic test does not include an analysis of the alcohol content of an individual's breath.

(d) “Municipality” means a county, township, city, or village.

**History:** 1994, Act 35, Eff. June 6, 1994;—Am. 1998, Act 98, Imd. Eff. May 15, 1998.

#### **12.203 State forensic laboratory fund; creation as separate fund; money and earnings credited to fund.**

Sec. 3. The state forensic laboratory fund is created as a separate fund in the state treasury. The state treasurer shall credit to the fund all amounts received under sections 6 and 9. Money in the fund credited to the department of state police pursuant to section 7 that is not appropriated in a fiscal year shall be credited to the fund to the credit of the department of state police and shall not revert to the general fund. Earnings from the fund shall be credited to the fund.

**History:** 1994, Act 35, Eff. June 6, 1994.

#### **12.204 Forensic laboratory fund; establishment within office of municipal treasurer.**

Sec. 4. A municipality that maintains a forensic laboratory may establish a forensic laboratory fund within the office of the treasurer of the municipality.

**History:** 1994, Act 35, Eff. June 6, 1994.

#### **12.205 Conduct of forensic test; advising prosecuting attorney.**

Sec. 5. The investigating officer of each criminal case being adjudicated shall advise the prosecuting attorney if a forensic laboratory has conducted a forensic test in the case.

**History:** 1994, Act 35, Eff. June 6, 1994;—Am. 2003, Act 99, Eff. Oct. 1, 2003.

#### **12.206 Assessments.**

Sec. 6. (1) The court shall order each person convicted and sentenced before October 1, 2003 of 1 or more crimes in the case to pay an assessment of \$150.00 if 1 or more of the following apply:

(a) The court is notified pursuant to section 5 that a forensic laboratory has conducted a forensic test in the investigation of the case.



(b) The person is convicted of a CSC offense.

(2) The assessment required under subsection (1) is in addition to any fine, costs, or other assessments imposed by the court. An assessment required under subsection (1) shall be ordered upon the record, and shall be listed separately in the judgment of sentence or order of probation.

(3) After reviewing a verified petition by the defendant against whom an assessment is imposed, the court may suspend payment of all or part of the assessment if it determines the defendant is unable to pay the assessment.

(4) The court, prosecuting attorney, and originating investigating law enforcement agency may each retain 5% of all assessments or portions of assessments collected for costs incurred pursuant to this section and shall transmit that money to their respective funding units. On the last day of each month, the clerk of the court shall transmit the remainder of assessments or portions of assessments collected under this section as follows:

(a) Assessments ordered and collected before October 1, 2003 shall be transmitted to the department of treasury for deposit in the state forensic laboratory fund created in section 3.

(b) Assessments ordered before October 1, 2003, but collected on or after October 1, 2003, shall be transmitted to the state treasurer for deposit in the justice system fund created in section 181 of the revised judicature act of 1961, 1961 PA 236, MCL 600.181.

**History:** 1994, Act 35, Eff. June 6, 1994;—Am. 1998, Act 98, Imd. Eff. May 15, 1998;—Am. 2003, Act 99, Eff. Oct. 1, 2003.

**12.207 Distributions from state laboratory fund; expenses incurred by municipality; application for reimbursement; reports; number of investigations; distribution and proceeds to municipality; determination of amount; appropriation and use of money.**

Sec. 7. (1) Beginning October 1, 2003, the department of treasury, each month, shall distribute proceeds of the state laboratory fund that are received from the justice system fund under section 181 of the revised judicature act of 1961, 1961 PA 236, MCL 600.181, as follows:

(a) For the state fiscal year beginning October 1, 2003, 19% to the department of state police to defray the cost of complying with the requirements of DNA profiling and DNA retention under the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176, with the balance of the fund being available for distribution under subsections (2) to (5).

(b) For the state fiscal year beginning October 1, 2004 and subsequent state fiscal years, 45% to the department of state police to defray the cost of complying with the requirements of DNA profiling and DNA retention under the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176, with the balance of the fund being available for distribution under subsections (2) to (5).

(2) A municipality that maintains a forensic laboratory and that incurred expenses for a forensic test by that laboratory may apply for reimbursement of those expenses on a form provided by the department of treasury.

(3) A municipality applying under subsection (2) shall report to the department of treasury the number of criminal investigations in the preceding year for which the municipality's forensic laboratory performed 1 or more forensic tests. The department of state police shall report to the department of treasury in the manner prescribed by that department the number of criminal investigations in the preceding year for which the department of state police performed 1 or more forensic tests, whether the investigation was conducted by the department of state police or by the law enforcement agency of a municipality. The department of state police shall also report the number of DNA identification profilings performed pursuant to the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176.

(4) The number of investigations reported pursuant to subsection (3) shall exclude any investigation reported in a previous year.

(5) After the distributions under subsection (1) are made, the department of treasury shall distribute proceeds of the state forensic laboratory fund annually to a municipality applying under this section in an amount determined by multiplying the remaining amount in the fund for that period by a fraction, the numerator of which is the total of investigations reported pursuant to subsection (3) by that municipality for that period and the denominator of which is the total of investigations and DNA identification profilings reported pursuant to subsection (3) for that period. The balance of the fund for that period after distributions under subsection (1) and this subsection shall be credited to the department of state police.

(6) The legislature shall appropriate money in the state forensic laboratory fund credited to the department of state police to that department exclusively for forensic science services. The use of money appropriated pursuant to this section may include, but is not limited to, any of the following:

(a) Costs incurred in providing forensic tests in connection with criminal investigations conducted within this state.

(b) Purchasing or maintaining equipment used in performing forensic tests.

(c) Providing for the continuing education, training, and professional development of regularly employed

laboratory personnel.

(d) Payment of expenses for implementing and performing procedures for DNA identification profiling under the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176.

(7) Money appropriated from the state forensic laboratory fund to the division of the department of state police concerned with forensic sciences shall be in addition to any allocations made pursuant to existing law and is intended to enhance appropriations from the general fund and not to replace or supplant those appropriations.

**History:** 1994, Act 35, Eff. June 6, 1994;—Am. 2003, Act 99, Eff. Oct. 1, 2003.

#### **12.208 Forensic laboratory maintained by municipality; appropriation and use of money.**

Sec. 8. (1) A municipality shall appropriate fees deposited in a forensic laboratory fund established pursuant to section 4 to the forensic laboratory maintained by the municipality.

(2) Money appropriated pursuant to this section shall be for the exclusive use of the forensic laboratory maintained by the municipality for the same purposes described in section 7(5)(a) to (c) and shall be in addition to any allocations made pursuant to existing law.

**History:** 1994, Act 35, Eff. June 6, 1994.

#### **12.209 Acceptance of gifts and grants.**

Sec. 9. The department of state police may accept for deposit in the state forensic laboratory fund by the state treasurer gifts and grants of money from individuals, federal or state governmental agencies, corporations, partnerships, associations, foundations, organizations, societies, or other legal entities.

**History:** 1994, Act 35, Eff. June 6, 1994.

#### **12.210 Report.**

Sec. 10. The department of state police or the department of treasury, as applicable, shall report annually to the governor and to the house and senate appropriations committees the amount received and appropriated in the fiscal year pursuant to this act, the amount expended pursuant to appropriations, and the balance in the state forensic laboratory fund.

**History:** 1994, Act 35, Eff. June 6, 1994.

#### **12.211 Effective date; applicability of assessment.**

Sec. 11. This act shall take effect upon the expiration of 90 days after the date of its enactment. The assessment required by this act shall apply to criminal prosecutions for offenses committed on or after the effective date of this act.

**History:** 1994, Act 35, Eff. June 6, 1994.

#### **12.212 Repealed. 1998, Act 98, Imd. Eff. May 15, 1998.**

**Compiler's note:** The repealed section pertained to repeal of the act.

## **MICHIGAN TRUST FUND ACT**

### **Act 489 of 2000**

AN ACT to create certain funds; to provide for the allocation of certain revenues among certain funds and for the operation, investment, and expenditure of certain funds; and to impose certain duties and requirements on certain state officials.

**History:** 2000, Act 489, Imd. Eff. Jan. 11, 2001;—Am. 2005, Act 232, Imd. Eff. Nov. 21, 2005.

*The People of the State of Michigan enact:*

#### **12.251 Short title.**

Sec. 1. This act shall be known and may be cited as the "Michigan trust fund act".

**History:** 2000, Act 489, Imd. Eff. Jan. 11, 2001.

#### **12.252 Definitions.**

Sec. 2. As used in this act:

(a) "Medicaid benefits trust fund" means the Michigan medicaid benefits trust fund established in section 5.

(b) "Medicaid program" means a program for medical assistance established under title XIX of the social security act, chapter 531, 49 Stat. 620, 42 USC 1396 to 1396f, 1396g-1 to 1396r-6, and 1396r-8 to 1396v.

(c) "Medicaid special financing payments" means the medicaid special adjustor payments each year authorized in the department of community health appropriations act.

(d) "Michigan merit award trust fund" means the Michigan merit award trust fund established in section 9.

(e) "Residual tobacco settlement revenue" means any residual interests, as defined by the Michigan tobacco settlement finance authority act, that are received by this state.

(f) "Tobacco settlement revenue" means money received by this state that is attributable to the master settlement agreement incorporated into a consent decree and final judgment entered into on December 7, 1998 in Kelly Ex Rel. Michigan v Philip Morris Incorporated, et al., Ingham county circuit court, docket no. 96-84281CZ, including any rights to receive money attributable to the master settlement agreement that has been sold by this state.

(g) "21st century jobs trust fund" means the 21st century jobs trust fund established in section 7.

**History:** 2000, Act 489, Imd. Eff. Jan. 11, 2001;—Am. 2005, Act 232, Imd. Eff. Nov. 21, 2005.

#### **12.253, 12.254 Repealed. 2005, Act 232, Imd. Eff. Nov. 21, 2005.**

**Compiler's note:** The repealed sections pertained to establishment of Michigan tobacco settlement trust fund and expenditure of revenues.

#### **12.255 Michigan medicaid benefits trust fund.**

Sec. 5. (1) The Michigan medicaid benefits trust fund is established in the department of treasury. The medicaid benefits trust fund shall consist only of the following:

(a) Interest and earnings from medicaid benefits trust fund investments.

(b) Donations of money made to the medicaid benefits trust fund from any source.

(c) Unexpended state restricted revenues and local revenues received by the department of community health as a result of additional medicaid special financing payments above the level assumed in the appropriations for the fiscal years 2000, 2001, and 2002.

(2) The state budget director shall provide a report to the senate, the house of representatives, and the senate and house fiscal agencies 10 days after the issuance of the comprehensive annual financial report of each year that details the amount of funds that are being transferred to the medicaid benefits trust fund. The report shall also identify the amount of medicaid benefits trust fund investment earnings, expenditures, and the medicaid benefits trust fund balance during the last completed fiscal year.

(3) The state treasurer shall direct the investment of the medicaid benefits trust fund.

(4) Money in the medicaid benefits trust fund at the close of a fiscal year shall remain in the medicaid benefits trust fund and shall not revert to the general fund.

**History:** 2000, Act 489, Imd. Eff. Jan. 11, 2001.

#### **12.256 Expenditure of medicaid benefits trust fund revenues.**

Sec. 6. The legislature shall authorize the expenditure of medicaid benefits trust fund revenues through an appropriation act only for 1 or more of the following purposes:

(a) To finance a shortfall in the medicaid program due to a disallowance of medicaid payments from the federal government.

(b) To offset any decline in revenue caused by federal medicaid policy changes.

**History:** 2000, Act 489, Imd. Eff. Jan. 11, 2001.

#### **12.257 21st century jobs trust fund; establishment; investment; money remaining at close of fiscal year; deposit of interest and earnings; deposit of Michigan tobacco settlement revenue.**

Sec. 7. (1) The 21st century jobs trust fund is established in the department of treasury. The 21st century jobs trust fund shall consist of donations of money made to the 21st century jobs trust fund from any source and both of the following:

(a) To the extent provided in section 8(1) of the Michigan tobacco settlement finance authority act, 2005 PA 226, MCL 129.268, the net proceeds of the sale of tobacco settlement revenues to the tobacco settlement finance authority under the Michigan tobacco settlement finance authority act, 2005 PA 226, MCL 129.261 to 129.279.

(b) Amounts appropriated from the general fund in section 89b(1) of the Michigan strategic fund act, 1984 PA 270, MCL 125.2089b.

(2) The state treasurer shall direct the investment of the 21st century jobs trust fund, which may be invested as part of the common cash of this state under 1967 PA 55, MCL 12.51 to 12.53, but shall be separately accounted for by the state treasurer. The state treasurer may invest the funds or assets of the 21st century jobs trust fund in any investment authorized under 1855 PA 105, MCL 21.141 to 21.147, for surplus funds of this state, in obligations issued by any state or political subdivision or instrumentality of the United States, or in any obligation issued, assumed, or guaranteed by a solvent entity created or existing under the laws of the United States or of any state, district, or territory of the United States, which are not in default as to principal or interest. In addition, the state treasurer shall comply with the divestment from terror act in making investments under this section.

(3) Except as provided in subsection (4), money in the 21st century jobs trust fund at the close of a fiscal year shall remain in the 21st century jobs trust fund and shall not revert to the general fund.

(4) Interest and earnings from investment of the 21st century jobs trust fund shall be deposited in the general fund.

(5) Beginning in fiscal year 2008 and through fiscal year 2015, each year \$75,000,000.00 of the tobacco settlement revenue received by this state that is not considered a TSR as that term is defined under the Michigan tobacco settlement finance authority act, 2005 PA 226, MCL 129.261 to 129.279, shall be deposited into the 21st century jobs trust fund.

(6) For the fiscal year ending September 30, 2016 only, \$30,000,000.00 of the tobacco settlement revenue received by this state that is not considered a TSR as that term is defined under the Michigan tobacco settlement finance authority act, 2005 PA 226, MCL 129.261 to 129.279, shall be deposited into the 21st century jobs trust fund.

**History:** Add. 2005, Act 232, Imd. Eff. Nov. 21, 2005;—Am. 2007, Act 50, Imd. Eff. Aug. 14, 2007;—Am. 2008, Act 99, Imd. Eff. Apr. 18, 2008;—Am. 2008, Act 256, Imd. Eff. Aug. 4, 2008.

#### **12.258 Transfer and disbursement of funds; purpose.**

Sec. 8. (1) Upon request from the fund board as defined in section 88a of the Michigan strategic fund act, 1984 PA 270, MCL 125.2088a, except as provided in subsection (2), the state treasurer shall transfer and disburse appropriated funds from the 21st century jobs trust fund only for the purpose of carrying out and at the specified time and as necessary to implement chapter 8A of the Michigan strategic fund act, 1984 PA 270, MCL 125.2088 to 125.2088p.

(2) The state treasurer shall transfer and disburse the amounts described in section 7(1)(b) for the purposes described in chapter 8B of the Michigan strategic fund act, 1984 PA 270, MCL 125.2089 to 125.2089d, as provided by an appropriation.

**History:** Add. 2005, Act 232, Imd. Eff. Nov. 21, 2005;—Am. 2008, Act 102, Imd. Eff. Apr. 18, 2008.

#### **12.259 Michigan merit award trust fund; establishment; money remaining at close of fiscal year; investment; allocation of tobacco settlement revenue.**

Sec. 9. (1) The Michigan merit award trust fund is established in the department of treasury. The Michigan merit award trust fund shall consist only of interest and earnings from Michigan merit award trust fund investments, donations of money made to the trust fund from any source, and any money allocated as provided by law.

(2) Money in the Michigan merit award trust fund at the close of a fiscal year shall remain in the Michigan merit award trust fund and shall not revert to the general fund.

(3) The state treasurer shall direct the investment of the Michigan merit award trust fund.

(4) Except as otherwise provided in section 7(5), each fiscal year, tobacco settlement revenue received by this state that is not considered a TSR as that term is defined under the Michigan tobacco settlement finance authority act shall be allocated to the Michigan merit award trust fund.

**History:** Add. 2005, Act 232, Imd. Eff. Nov. 21, 2005.

#### **12.260 Michigan merit award trust fund; disbursement of funds; purpose.**

Sec. 10. Upon appropriation, the state treasurer shall disburse funds from the Michigan merit award trust fund for 1 or more of the following purposes:

(a) Michigan merit award scholarships under the Michigan merit award scholarship act, 1999 PA 94, MCL 390.1451 to 390.1459, or to a successor to that program.

(b) Expenses properly incurred in the administration of the Michigan merit award scholarships and the test by which awardees of the Michigan merit award scholarships are determined.

(c) Funding of the tuition incentive program as described in section 310 of 1998 PA 271 or a successor to that program.

(d) Funding of the Michigan nursing scholarship program as described in the Michigan nursing scholarship act, 2002 PA 591, MCL 390.1181 to 390.1189.

(e) Other expenditures as determined by law.

**History:** Add. 2005, Act 232, Imd. Eff. Nov. 21, 2005.